

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SCOTT M. DAWLING,)	
)	
Plaintiff,)	
)	
v.)	1:12CV198
)	
SHAMROCK ENVIRONMENTAL)	
CORPORATION,)	
)	
Defendant.)	

O-R-D-E-R

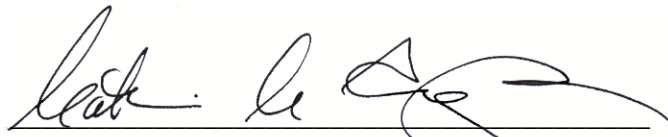
The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on June 25, 2012, was served on the parties in this action. Plaintiff filed a “Response” to the Recommendation. (Doc. 18.) The Defendant did not object.

It is not clear that the Plaintiff’s response is in fact an objection to the Magistrate Judge’s recommendation. In his response, the Plaintiff objects “to any decision other than a jury” trial in connection with the claims as to which the Equal Employment Opportunity Commission authorized Plaintiff to file suit. The Magistrate Judge’s recommendation does not recommend dismissing the claims raised by the Plaintiff in his EEOC charge – i.e., the claims concerning an allegedly unlawful job transfer. The recommendation only recommends dismissing any claim related to the Plaintiff’s discharge, which was not mentioned in the EEOC charge.

In any event, the Court has reviewed the Magistrate Judge’s report and has made a de novo determination which is in accord with the Magistrate Judge’s report. The Court adopts the Magistrate Judge’s recommendation in full.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss or, Alternatively, for Summary Judgment (Doc. 10) is **GRANTED IN PART** and **DENIED IN PART**. The Court dismisses for lack of subject matter jurisdiction any race- or age- based discriminatory discharge claim. The Defendant's Motion is otherwise denied, and the Plaintiff's claims that Defendant engaged in race and age discrimination by transferring him from tank technician to a job with significantly different responsibilities are not dismissed and remain pending, without prejudice to a Motion for Summary Judgment after an appropriate time for discovery.

This the 21st day of August, 2012.



UNITED STATES DISTRICT JUDGE